

AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1079

Introduced by Senator Glazer
(Coauthor: Assembly Member Baker)

February 17, 2016

An act to add ~~Section 295.3 to Article 8 (commencing with Section 301) to Chapter 6 of Title 9 of Part 1 of the Penal Code, relating to DNA evidence.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1079, as amended, Glazer. DNA evidence: CODIS Hit Outcome Project.

Existing law, the DNA and Forensic Identification Database and Data Bank Act of 1998, provides that the Department of Justice, through its DNA Laboratory, is responsible for the management and administration of the state's DNA and Forensic Identification Database and Data Bank Program. Existing law prohibits the DNA and forensic identification database and databank from being used as a source of genetic material for testing, research, or ~~experiments~~; *experiments* by any person, agency, or entity seeking to find a causal link between genetics and behavior or health.

This bill would ~~find and declare that the Department of Justice manages and administers~~ *establish* the CODIS Hit Outcome Project (CHOP) database ~~and in, and would require that the database be administered and managed by, the department. The bill would impose various requirements and restrictions relating to the CHOP database database, including, among other things, a requirement that every city, county, or state laboratory participating in CODIS enter into the database data specified by the department upon notification that a~~

CODIS hit has occurred, a prohibition of against the CHOP database containing DNA profiles profiles, and a requirement that certain entities, including, among others, each law enforcement agencies and county probation departments, agency within California responsible for the investigation or prosecution of a case involving a DNA database match to a California offender report to the Department of Justice, through the CHOP database, the status or outcome of that investigative leads provided by the state’s DNA Database and Data Bank Program. lead. The bill would require a county city, county, or city and county to be reimbursed for the cost of reporting that information to the Department of Justice. By imposing a higher level of service on local entities, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 8 (commencing with Section 301) is added
 2 to Chapter 6 of Title 9 of Part 1 of the Penal Code, to read:
 3
 4 Article 8. CHOP Database
 5
 6 301. (a) For purposes of this article, the following definitions
 7 shall apply:
 8 (b) “CODIS” means the California Combined DNA Index
 9 System.
 10 (c) “CHOP database” refers to the CODIS Hit Outcome Project
 11 database.
 12 (d) “Department” means the Department of Justice.
 13 301.1. (a) There is hereby established in the department the
 14 CHOP database.

1 (b) *The CHOP database shall be managed and administered*
2 *by the department.*

3 301.2. (a) *The CHOP database shall provide a*
4 *restricted-access repository for tracking the occurrence and*
5 *consequences of DNA database hits, such that information with*
6 *investigatory value may be shared among affected law enforcement*
7 *agencies and the efficacy of the state’s DNA database may be*
8 *monitored and reported upon by the state.*

9 (b) (1) *Every city, county, or state laboratory in California*
10 *participating in CODIS shall, upon notification by the department*
11 *that a CODIS hit has occurred, enter into the CHOP database the*
12 *data specified by the department.*

13 (2) *On a schedule set forth by the department, and pursuant to*
14 *instructions published by the department, each law enforcement*
15 *agency within California responsible for the investigation or*
16 *prosecution of a case involving a DNA database match to a*
17 *California offender shall report to the department, through the*
18 *CHOP database, the status or outcome of that investigative lead.*

19 (3) *A city, county, or city and county shall be reimbursed for*
20 *the costs of complying with paragraph (2).*

21 (c) (1) *The CHOP database shall contain records of indexed*
22 *information related to DNA hits and case-to-case matches,*
23 *including, but not limited to, the identity of the submitting crime*
24 *laboratory, the investigating law enforcement agency, a district*
25 *attorney contact, offender information, investigation status, and*
26 *resulting criminal charges and conviction information, if any.*

27 (2) *The CHOP database shall not contain DNA profiles.*

28 (3) (A) *Information collected by the department pursuant to*
29 *this section is investigatory in nature, and shall be deemed official*
30 *information and subject to the disclosure protections of Sections*
31 *1040 and 1041 of the Evidence Code.*

32 (B) *Nothing in this section shall require the department, or a*
33 *local law enforcement agency, to disclose any information*
34 *protected under Section 1040 or 1041 of the Evidence Code, or*
35 *Section 6254 of the Government Code.*

36 SEC. 2. *If the Commission on State Mandates determines that*
37 *this act contains costs mandated by the state, reimbursement to*
38 *local agencies and school districts for those costs shall be made*
39 *pursuant to Part 7 (commencing with Section 17500) of Division*
40 *4 of Title 2 of the Government Code.*

1 SECTION 1.— Section 295.3 is added to the Penal Code,
2 immediately following Section 295.2, to read:

3 295.3. (a) The Legislature finds and declares both of the
4 following:

5 (1) The Department of Justice, through its DNA Laboratory,
6 manages and administers the CODIS Hit Outcome Project (CHOP)
7 database.

8 (2) The purpose of the CHOP database is to provide a central
9 repository for confidential law enforcement data-sharing of case
10 information related to DNA database hits.

11 (b) (1) The CHOP database shall not contain DNA profiles.

12 (2) The CHOP database shall contain records of indexed
13 information related to DNA hits and case-to-case matches,
14 including, but not limited to, the identity of the submitting crime
15 laboratory, the investigating law enforcement agency, a district
16 attorney contact, and offender information, including criminal
17 charges and conviction information.

18 (c) (1) Except to the extent required by the United States
19 Constitution or the California Constitution, the Department of
20 Justice, a law enforcement agency, a local, state, or federal
21 prosecutorial entity, a crime laboratory, or a federal, state, or local
22 agency shall not be compelled to provide information from or
23 about the CHOP database in any criminal or civil proceeding.

24 (2) The Department of Justice shall not release case specific
25 information that the investigating law enforcement agency has
26 requested to keep confidential because its release would impair a
27 pending criminal investigation.

28 (d) (1) On a schedule set forth by the Department of Justice,
29 the Department of Corrections and Rehabilitation, and each law
30 enforcement agency, medical examiner, coroner, public fire
31 department investigator, state mental health investigator, county
32 probation department, district attorney, and any other participating
33 entity shall report to the Department of Justice, through the CHOP
34 database, the outcome of investigative leads provided by the state's
35 DNA Database and Data Bank Program, in a format approved by
36 the Department of Justice DNA Laboratory.

37 (2) A county shall be reimbursed for the costs of complying
38 with paragraph (1).

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